

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 16-CV-00616-RB-KBM

No. 13-CR-00173-RB

MAYRA DENISE AGUIRRE,

Defendant.

SECOND ORDER TO SHOW CAUSE

This matter is before the Court, *sua sponte*. On October 17, 2016, this Court ordered Defendant Mayra Denise Aguirre to show cause why her § 2255 motion should not be dismissed for lack of subject matter jurisdiction, because she was not in custody on the conviction and sentence under attack at the time her § 2255 motion was filed. [CV Doc. 3; CR Doc. 57] On November 1, 2016, the Court's Order to Show Cause was returned as undeliverable, because Defendant is no longer incarcerated at FCI Aliceville. [CV Doc. 4] According to the Federal Bureau of Prisons' Inmate Locator Service, Defendant was released from custody on September 16, 2016. See <https://www.bop.gov/inmateloc/> (last visited November 2, 2016). The Local Rules of the United States District Court for the District of New Mexico provide that "[a]ll attorneys of record and parties appear *pro se* have a continuing duty to notify the Clerk, in writing, of any change in their firm name, mailing addresses, telephone numbers, facsimile numbers, or electronic addresses." D.N.M.LR-Civ. 83.6. It appears that Defendant has been released from custody, without updating her address with the Court, in violation of Local Rule 83.6, thus severing contact with the Court. Because Defendant has failed to comply with the Court's local rules, she will be required to show cause why this action should not be dismissed. See

Bradenburg v. Beaman, 632 F.2d 120, 122 (10th Cir. 1980) (“It is incumbent on litigants, even those proceeding *pro se*, to follow the federal rules of procedure. . . . The same is true of simple, nonburdensome local rules” (citation omitted)). Failure to comply with this Order may result in the dismissal of this action without further notice.

IT IS THEREFORE ORDERED that, within thirty (30) days from entry of this order, Defendant shall notify the Clerk of the Court in writing of her current address or otherwise show cause why this action should not be dismissed.


UNITED STATES CHIEF MAGISTRATE JUDGE